IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 3 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

CHEMICOAT LIMITED

Appearance:

MR AKIL KURESHI FOR MR MANISH R BHATT for Petitioner

SERVED BY RPAD - (N) for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 28/08/2000

ORAL JUDGEMENT (Per D.M. DHARMADHIKARI, C.J.)

1. For the assessment year 1979-80, the following question of law has been referred to us for answer:

"Whether, on the facts and in the circumstances of the case. Tribunal was right in law in coming to the conclusion that the expenses of Rs.3,76,506/- incurred by the assessee in setting up new unit (the Kandla Project) was allowable as revenue expenditure?"

2. Learned counsel appearing for the Department brings to our notice two orders in the case of same assessee for other assessment years, i.e., Income Tax References Nos. 260 and 333 both of 1984 decided on 28-12-1999, where similar question has been answered in favour of the assessee and against the Department. The copy of the judgment dated 28-12-1999 passed in Income Tax References Nos. 260 and 333 of 1984 is also placed before us for record. Relying on the decision (supra) on the Income Tax References of the same assessee, the question is answered in favour of the assessee and against the revenue.

There shall be no order as to costs.

(D.M. DHARMADHIKARI, C.J.)

(A.R. DAVE, J)

[sndevu]